

FIRST REGULAR SESSION

SENATE BILL NO. 120

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALSH.

Pre-filed December 3, 2014, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0374S.01I

AN ACT

To repeal section 595.209, RSMo, and to enact in lieu thereof three new sections relating to law enforcement officers.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 595.209, RSMo, is repealed and three new sections
2 enacted in lieu thereof, to be known as sections 590.550, 595.209, and 595.211,
3 to read as follows:

590.550. 1. For the purposes of this section, the term
2 **"officer-involved death" means the death of an individual that results**
3 **directly from an action or an omission of a peace officer while the**
4 **officer is on duty or while the officer is off duty but performing**
5 **activities that are within the scope of his or her law enforcement**
6 **duties.**

7 **2. Each law enforcement agency shall have a written policy**
8 **regarding the investigation of officer-involved deaths that involve**
9 **peace officers employed by the agency. The policy shall require:**

10 **(1) Each officer-involved death to be investigated by at least two**
11 **investigators, one of whom is the lead investigator and neither of whom**
12 **is employed by the law enforcement agency that employs the officer**
13 **involved in the death; and**

14 **(2) Each officer-involved death that is traffic-related to use a**
15 **crash reconstruction unit from a law enforcement agency that does not**
16 **employ the officer involved in the death, except that a policy for the**
17 **Missouri state highway patrol may allow use of a crash reconstruction**
18 **unit from the highway patrol.**

19 **3. The written policy may allow an internal investigation into the**
20 **officer-involved death if the internal investigation does not interfere**

21 with the investigation required under subsection 2 of this section.

22 4. Compensation for participation in an investigation under
23 subsection 2 of this section may be determined in a mutual aid
24 agreement.

25 5. The investigators conducting the investigation under
26 subsection 2 of this section shall, in an expeditious manner, provide a
27 complete report to the prosecuting or circuit attorney of the county in
28 which the officer-involved death occurred. If the prosecuting or circuit
29 attorney determines there is no basis to prosecute the peace officer
30 involved in the death, the investigators shall release the report to the
31 public.

32 6. The provisions of this section shall apply to officer-involved
33 deaths that occur after August 27, 2015.

595.209. 1. The following rights shall automatically be afforded to victims
2 of dangerous felonies, as defined in section 556.061, victims of murder in the first
3 degree, as defined in section 565.020, victims of voluntary manslaughter, as
4 defined in section 565.023, and victims of an attempt to commit one of the
5 preceding crimes, as defined in section 564.011; and, upon written request, the
6 following rights shall be afforded to victims of all other crimes and witnesses of
7 crimes:

8 (1) For victims, the right to be present at all criminal justice proceedings
9 at which the defendant has such right, including juvenile proceedings where the
10 offense would have been a felony if committed by an adult, even if the victim is
11 called to testify or may be called to testify as a witness in the case;

12 (2) For victims, the right to information about the crime, as provided for
13 in subdivision (5) of this subsection;

14 (3) For victims and witnesses, to be informed, in a timely manner, by the
15 prosecutor's office of the filing of charges, preliminary hearing dates, trial dates,
16 continuances and the final disposition of the case. Final disposition information
17 shall be provided within five days;

18 (4) For victims, the right to confer with and to be informed by the
19 prosecutor regarding bail hearings, guilty pleas, pleas under chapter 552 or its
20 successors, hearings, sentencing and probation revocation hearings and the right
21 to be heard at such hearings, including juvenile proceedings, unless in the
22 determination of the court the interests of justice require otherwise;

23 (5) The right to be informed by local law enforcement agencies, the
24 appropriate juvenile authorities or the custodial authority of the following:

25 (a) The status of any case concerning a crime against the victim, including
26 juvenile offenses;

27 (b) The right to be informed by local law enforcement agencies or the
28 appropriate juvenile authorities of the availability of victim compensation
29 assistance, assistance in obtaining documentation of the victim's losses, including,
30 but not limited to and subject to existing law concerning protected information
31 or closed records, access to copies of complete, unaltered, unedited investigation
32 reports of motor vehicle, pedestrian, and other similar accidents upon request to
33 the appropriate law enforcement agency by the victim or the victim's
34 representative, and emergency crisis intervention services available in the
35 community;

36 (c) Any release of such person on bond or for any other reason;

37 (d) Within twenty-four hours, any escape by such person from a municipal
38 detention facility, county jail, a correctional facility operated by the department
39 of corrections, mental health facility, or the division of youth services or any
40 agency thereof, and any subsequent recapture of such person;

41 (6) For victims, the right to be informed by appropriate juvenile
42 authorities of probation revocation hearings initiated by the juvenile authority
43 and the right to be heard at such hearings or to offer a written statement, video
44 or audio tape, counsel or a representative designated by the victim in lieu of a
45 personal appearance, the right to be informed by the board of probation and
46 parole of probation revocation hearings initiated by the board and of parole
47 hearings, the right to be present at each and every phase of parole hearings, the
48 right to be heard at probation revocation and parole hearings or to offer a written
49 statement, video or audio tape, counsel or a representative designated by the
50 victim in lieu of a personal appearance, and the right to have, upon written
51 request of the victim, a partition set up in the probation or parole hearing room
52 in such a way that the victim is shielded from the view of the probationer or
53 parolee, and the right to be informed by the custodial mental health facility or
54 agency thereof of any hearings for the release of a person committed pursuant to
55 the provisions of chapter 552, the right to be present at such hearings, the right
56 to be heard at such hearings or to offer a written statement, video or audio tape,
57 counsel or a representative designated by the victim in lieu of personal
58 appearance;

59 (7) For victims and witnesses, upon their written request, the right to be
60 informed by the appropriate custodial authority, including any municipal
61 detention facility, juvenile detention facility, county jail, correctional facility
62 operated by the department of corrections, mental health facility, division of
63 youth services or agency thereof if the offense would have been a felony if
64 committed by an adult, postconviction or commitment pursuant to the provisions
65 of chapter 552 of the following:

66 (a) The projected date of such person's release from confinement;

67 (b) Any release of such person on bond;

68 (c) Any release of such person on furlough, work release, trial release,
69 electronic monitoring program, or to a community correctional facility or program
70 or release for any other reason, in advance of such release;

71 (d) Any scheduled parole or release hearings, including hearings under
72 section 217.362, regarding such person and any changes in the scheduling of such
73 hearings. No such hearing shall be conducted without thirty days' advance
74 notice;

75 (e) Within twenty-four hours, any escape by such person from a municipal
76 detention facility, county jail, a correctional facility operated by the department
77 of corrections, mental health facility, or the division of youth services or any
78 agency thereof, and any subsequent recapture of such person;

79 (f) Any decision by a parole board, by a juvenile releasing authority or by
80 a circuit court presiding over releases pursuant to the provisions of chapter 552,
81 or by a circuit court presiding over releases under section 217.362, to release such
82 person or any decision by the governor to commute the sentence of such person
83 or pardon such person;

84 (g) Notification within thirty days of the death of such person;

85 (8) For witnesses who have been summoned by the prosecuting attorney
86 and for victims, to be notified by the prosecuting attorney in a timely manner
87 when a court proceeding will not go on as scheduled;

88 (9) For victims and witnesses, the right to reasonable protection from the
89 defendant or any person acting on behalf of the defendant from harm and threats
90 of harm arising out of their cooperation with law enforcement and prosecution
91 efforts;

92 (10) For victims and witnesses, on charged cases or submitted cases where
93 no charge decision has yet been made, to be informed by the prosecuting attorney
94 of the status of the case and of the availability of victim compensation assistance

95 and of financial assistance and emergency and crisis intervention services
96 available within the community and information relative to applying for such
97 assistance or services, and of any final decision by the prosecuting attorney not
98 to file charges;

99 (11) For victims, to be informed by the prosecuting attorney of the right
100 to restitution which shall be enforceable in the same manner as any other cause
101 of action as otherwise provided by law;

102 (12) For victims and witnesses, to be informed by the court and the
103 prosecuting attorney of procedures to be followed in order to apply for and receive
104 any witness fee to which they are entitled;

105 (13) When a victim's property is no longer needed for evidentiary reasons
106 or needs to be retained pending an appeal, the prosecuting attorney or any law
107 enforcement agency having possession of the property shall, upon request of the
108 victim, return such property to the victim within five working days unless the
109 property is contraband or subject to forfeiture proceedings, or provide written
110 explanation of the reason why such property shall not be returned;

111 (14) An employer may not discharge or discipline any witness, victim or
112 member of a victim's immediate family for honoring a subpoena to testify in a
113 criminal proceeding, attending a criminal proceeding, or for participating in the
114 preparation of a criminal proceeding, or require any witness, victim, or member
115 of a victim's immediate family to use vacation time, personal time, or sick leave
116 for honoring a subpoena to testify in a criminal proceeding, attending a criminal
117 proceeding, or participating in the preparation of a criminal proceeding;

118 (15) For victims, to be provided with creditor intercession services by the
119 prosecuting attorney if the victim is unable, as a result of the crime, temporarily
120 to meet financial obligations;

121 (16) For victims and witnesses, the right to speedy disposition of their
122 cases, and for victims, the right to speedy appellate review of their cases,
123 provided that nothing in this subdivision shall prevent the defendant from having
124 sufficient time to prepare such defendant's defense. The attorney general shall
125 provide victims, upon their written request, case status information throughout
126 the appellate process of their cases. The provisions of this subdivision shall apply
127 only to proceedings involving the particular case to which the person is a victim
128 or witness;

129 (17) For victims and witnesses, to be provided by the court, a secure
130 waiting area during court proceedings and to receive notification of the date, time

131 and location of any hearing conducted by the court for reconsideration of any
132 sentence imposed, modification of such sentence or recall and release of any
133 defendant from incarceration;

134 (18) For victims, the right to receive upon request from the department
135 of corrections a photograph taken of the defendant prior to release from
136 incarceration;

137 **(19) For victims of officer-involved deaths as the term "officer-**
138 **involved death" is defined under section 590.550, the right to be**
139 **informed about the process by which he or she may file an affidavit**
140 **under section 545.250 and about the process of an inquest under**
141 **chapter 58.**

142 2. The provisions of subsection 1 of this section shall not be construed to
143 imply any victim who is incarcerated by the department of corrections or any local
144 law enforcement agency has a right to be released to attend any hearing or that
145 the department of corrections or the local law enforcement agency has any duty
146 to transport such incarcerated victim to any hearing.

147 3. Those persons entitled to notice of events pursuant to the provisions of
148 subsection 1 of this section shall provide the appropriate person or agency with
149 their current addresses and telephone numbers or the addresses or telephone
150 numbers at which they wish notification to be given.

151 4. Notification by the appropriate person or agency utilizing the statewide
152 automated crime victim notification system as established in section 650.310 shall
153 constitute compliance with the victim notification requirement of this section. If
154 notification utilizing the statewide automated crime victim notification system
155 cannot be used, then written notification shall be sent by certified mail to the
156 most current address provided by the victim.

157 5. Victims' rights as established in section 32 of article I of the Missouri
158 Constitution or the laws of this state pertaining to the rights of victims of crime
159 shall be granted and enforced regardless of the desires of a defendant and no
160 privileges of confidentiality shall exist in favor of the defendant to exclude victims
161 or prevent their full participation in each and every phase of parole hearings or
162 probation revocation hearings. The rights of the victims granted in this section
163 are absolute and the policy of this state is that the victim's rights are paramount
164 to the defendant's rights. The victim has an absolute right to be present at any
165 hearing in which the defendant is present before a probation and parole hearing
166 officer.

595.211. No later than twenty-four hours after a law enforcement
2 agency has initial contact with a victim of a crime that the law
3 enforcement agency is responsible for investigating, the law
4 enforcement agency shall make a reasonable attempt to provide to the
5 victim written information on all of the following:

6 (1) A list of the rights of victims under section 595.209 and
7 section 32 of article I of the Missouri Constitution;

8 (2) The availability of compensation under sections 595.010 to
9 595.075 and the address and telephone number at which to contact the
10 department for information concerning compensation;

11 (3) The address and telephone number of the prosecuting
12 attorney whom the victim may contact to obtain information
13 concerning the rights of victims and to request notice of court
14 proceedings and to request the opportunity to confer;

15 (4) The address and telephone number of the custodial authority
16 that the victim may contact to obtain information concerning the
17 taking into custody, arrest, or release of a suspect in connection with
18 the crime of which he or she is a victim;

19 (5) Suggested procedures for the victim to follow if he or she is
20 subject to threats or intimidation arising out of his or her cooperation
21 with law enforcement and prosecution efforts relating to a crime of
22 which he or she is a victim;

23 (6) The address and telephone number at which the victim may
24 contact the department or any local agency that provides victim
25 assistance in order to obtain further information about services
26 available for victims, including medical services;

27 (7) If the victim is a victim of an officer-involved death as the
28 term "officer-involved death" is defined in section 590.550, information
29 about the process by which he or she may file an affidavit under
30 section 545.250 and about the process of an inquest under chapter 58.

✓